

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Fellenstein) Serial No. 10/626,194
)
Applicant,) Docket No. AUS920030365US1
)
For: Method and System for Identification and) Art Unit 2109
Presentation of Statistical Usage Data for)
Messaging Systems)
)
) Examiner Fearer
Filed: 07/24/2003)

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

February 15, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

To the Honorable Commissioner of Patents:

On January 18, 2008, Darlene Brown, Patent Appeal Center Specialist, mailed a Notice of Non-Compliant Appeal Brief in regard to the Appeal Brief filed December 17, 2007 stating that "the brief fails to identify which claims are on appeal." The Notification further stated that "[t]he entire brief is not required, only the section that was found defective."

In response to the notification, applicant submits that the original brief did in fact specify which claims were on appeal in the Tabular listing of claims contained in Section III, Status of the Claims, pages 3-4 of the appeal brief. Applicant listed the status of the

claims individually to ensure compliance with the appeal brief requirements. Nevertheless, applicant amends Section III, Status of the Claims, to add a sentence above the individual listing stating that “[c]laims 1 through 27 are on appeal.” The amendment is set forth on pages 3-4 of this reply.

While the notification mailed January 18, 2008 stated that “[t]he entire brief is not required, only the section that was found defective,” MPEP 1205.03 appears to require an amended brief except when the alleged defect was a failure to identify the real party in interest (1205.03(A)) and when the defect is solely due to failure to provide a summary of the claimed subject matter (1205.03(B)). Therefore, applicant submits an amended brief out of an abundance of caution. No new matter has been entered into the amended appeal brief.

The signature block follows the amendment on pages 3-4.

Please amend the appeal brief, Section III, Status of the Claims, appearing on pages 3-4 of the appeal brief as follows:

III. STATUS OF THE CLAIMS

The application included 27 claims. Claims 1-27 are pending. No claims have been allowed. The examiner has rejected all pending claims. Claims 1 through 27 are appealed.

| Claim | Type | Depends from | Status | Appealed |
|-------|-------------|--------------|----------|----------|
| 1 | Independent | | Rejected | Yes |
| 2 | Dependent | 1 | Rejected | Yes |
| 3 | Dependent | 1 | Rejected | Yes |
| 4 | Dependent | 1 | Rejected | Yes |
| 5 | Dependent | 1 | Rejected | Yes |
| 6 | Dependent | 1 | Rejected | Yes |
| 7 | Dependent | 6 | Rejected | Yes |
| 8 | Dependent | 1 | Rejected | Yes |
| 9 | Dependent | 8 | Rejected | Yes |
| 10 | Dependent | 1 | Rejected | Yes |
| 11 | Independent | | Rejected | Yes |
| 12 | Dependent | 11 | Rejected | Yes |
| 13 | Dependent | 11 | Rejected | Yes |
| 14 | Dependent | 11 | Rejected | Yes |
| 15 | Dependent | 11 | Rejected | Yes |

| | | | | |
|----|-------------|----|----------|-----|
| 16 | Dependent | 11 | Rejected | Yes |
| 17 | Dependent | 16 | Rejected | Yes |
| 18 | Dependent | 11 | Rejected | Yes |
| 19 | Dependent | 18 | Rejected | Yes |
| 20 | Dependent | 11 | Rejected | Yes |
| 21 | Independent | | Rejected | Yes |
| 22 | Dependent | 21 | Rejected | Yes |
| 23 | Dependent | 21 | Rejected | Yes |
| 24 | Dependent | 21 | Rejected | Yes |
| 25 | Dependent | 21 | Rejected | Yes |
| 26 | Dependent | 21 | Rejected | Yes |
| 27 | Dependent | 21 | Rejected | Yes |

If there are any questions, please call the undersigned at 214-231-4703.

Respectfully submitted,

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